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EXAMINER

BURGESS, BARBARA N

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,896

Applicant(s)

LESSARD ET AL.

Examiner

Barbara N. Burgess

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to Amendments filed April 8, 2005. Claims 1-22 are presented for further examination. Claims 23-24 are presented for initial examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4, 6, 9, 12-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Giniger et al. (hereinafter "Giniger", US Patent No 6,199,045 B1).

As per claim 1, Giniger discloses a system for the creation and management of bookmarks relating to a location comprising:

a) a data server comprising;

i) processor means for processing data (column 5, lines 64-67, column 6, lines 1-5, column 8, lines 41-47);

ii) means for encoding data elements relating to said location (column 7, lines 10-12, column 11, lines 35-38, column 12, lines 20-23);

iii) means for storing said data elements on a storage medium (column 11, lines 38-39, column 12, lines 25-26, 34-35);

iv) means for selectively accessing said data (column 6, lines 1-5, column 8, lines 61-64, column 12, lines 33-37);

v) data transceiver means (column 6, lines 5-7, column 8, lines 64-65, column 11, lines 59-61, column 12, lines 43-45, column 13, lines 18-19);

b) at least one user device comprising:

i) means for determining said location position (column 5, lines 48-55, column 8, lines 23-25, 54-57);

ii) means for creating data elements relating to said location (column 11, lines 21-34, column 18, lines 1-20);

iii) data transceiver means (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);

c) a data communication network adapted to connect said user device to said data server (column 5, lines 50-61, column 8, lines 15-34).

As per claim 2, Giniger discloses a system as claimed in claim 1 in which the data elements are adapted to contain data representations of:

a) the geographical position of the location (column 5, lines 12-15, 49-67, column 7, lines 6-8, column 8, lines 15-21, 45-51);

b) an identifier associated with the location (column 8, lines 54-59, column 9, lines 49-65, column 11, lines 35-40, 59-65).

As per claim 4, Giniger discloses a system as claimed in claim 2 wherein said identifier is one or more of the

following:

- a) a text;
- b) a video recording;
- c) an audio recording;
- d) an image (column 9, lines 20-25, 38-45, 50-60).

As per claim 6, Giniger discloses a system as claimed in claim 4 further comprising data elements which are adapted to contain data representations of the identification of the author of the bookmark (column 11, lines 10-20, 28-40).

As per claim 9, Giniger discloses a virtual location bookmark for use with a system as described in claim 1 in which the data elements are adapted to contain data representations of :

- a) the geographical position of the location (column 5, lines 12-15, 49-67, column 7, lines 6-8, column 8, lines 15-21, 45-51);
- b) an identifier associated with the location (column 8, lines 54-59, column 9, lines 49-65, column 11, lines 35-40, 59-65).

As per claim 12, Giniger discloses a method allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least a user device and a data communication network, said method comprising the steps of:

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- a) determining the geographical position of the location using said user device (column 5, lines 12-15, 49-67, column 7, lines 6-8, column 8, lines 15-21, 45-51);
- b) identifying or creating additional data associated to said location (column 6, lines 1-5, column 8, lines 61-64, column 12, lines 33-37);
- c) creating a record comprising said position and said additional data elements using said user device (column 11, lines 38-39, column 12, lines 25-26, 34-35);
- d) transmitting said record from said user device to said data server using said data communication network (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);
- e) storing said record in said data server (column 11, lines 38-39, column 12, lines 25-26, 34-35).

As per claim 13, Giniger discloses a method as claimed in claim 12 wherein the said record is created by the user of a wireless device (column 8, lines 15-34).

As per claim 14, Giniger discloses a method as described in claim 12 wherein said record is created by the user of a wired device (column 8, lines 15-34).

As per claim 15, Giniger discloses a method as claimed in claim 13 wherein said wireless device is a cellular telephone (column 8, lines 15-34).

As per claim 16, Giniger discloses a method as claimed in claim 12 wherein said record is created by the user of a browser based light client (column 8, lines 15-34).

As per claim 17, Giniger discloses a method allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least a user device and a data communication network, said method comprising the steps of:

- a) determining the geographical coordinates of the location using said user device;
- b) identifying or creating additional data elements associated to said location using said user device (column 6, lines 1-5, column 8, lines 61-64, column 12, lines 33-37);
- c) transmitting said geographical coordinates and said additional data elements from said user device to said data server using said data communication network (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);
- d) storing said coordinates and said additional data elements in said data server (column 7, lines 6-12, column 11, lines 38-39, column 12, lines 25-26, 34-35).

As per claim 18, Giniger discloses a method as in claimed 12 wherein said coordinates are determined with the use of a GPS device (column 7, lines 6-12, 20-25, 45-53).

As per claim 19, Giniger discloses a method as claimed in claimed 17 wherein said coordinates are determined with the use of a GPS device (column 9, lines 49-60).

As per claim 20, Giniger discloses a method as claimed in claim 19 wherein said GPS device is integrated to a wireless communication device (column 9, lines 19-25, 49-55).

As per claim 21, Giniger discloses a method as claimed in claim 20 wherein said wireless communication device is a cellular telephone (column 8, lines 15-34).

As per claim 22, Giniger discloses a method allowing an end user to a record created pursuant to the method claimed in claim 12, comprising the steps of:

- a) accessing said data server using said data communication network using a wireless device (column 5, lines 50-61, column 8, lines 15-34);
- b) selecting said record said data server (column 11, lines 38-39, column 12, lines 25-26, 34-35);
- c) communicating said record over said data communication network to the user of said wireless device (column 6, lines 5-7, column 8, lines 64-65, column 11, lines 59-61, column 12, lines 43-45, column 13, lines 18-19).

As per claim 23, Giniger discloses a method as claimed in claim 12, wherein the system further comprising a second user device, said method further allowing an end user to share said information concerning a location with a second end user, said method further comprising the step of transmitting said record from said first user device to said second user device using said data communication network (column 7, lines 15-27)

As per claim 24, Giniger discloses a method as claimed in claim 17, wherein the system further comprises a second user device, said method further allowing an end user to share said information concerning a location with a second end user, said method further comprising the step of transmitting said record from said first user device to said second user device using said data communication network (column 7, lines 15-27).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giniger et al.

(hereinafter "Giniger", US Patent No 6,199,045 B1) in view of Kitano et al. (hereinafter "Kitano", US Patent No 5,926,116).

As per claim 3, Giniger discloses a system as claimed in claim 2.

Giniger does not explicitly disclose the system in which the geographical position data elements comprise:

a) the latitude associated with the location;

b) the longitude associated with the location.

However, in analogous art, Kitano discloses a GPS detection means that detects current position such as a latitude and a longitude at which the portable terminal is positioned (column 4, lines 1-5, 57-60, column 5, lines 31-54).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating latitude and longitude with the location in Giniger in order for a terminal's position to be retrieved.

As per claim 10, Giniger discloses a virtual bookmark as claimed in claim 9. Giniger does not explicitly disclose the system wherein the geographical position data elements comprise:

- a) the latitude associated with the location; and
- b) the longitude associated with the location.

However, in analogous art, Kitano discloses a GPS detection means that detects current position such as a latitude and a longitude at which the portable terminal is positioned (column 4, lines 1-5, 57-60, column 5, lines 31-54).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating latitude and longitude with the location in Giniger in order for a terminal's position to be retrieved.

5. Claims 5, 7-8, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giniger et al.

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(hereinafter "Giniger", US Patent No 6,199,045 B1) in view of Kitano et al. (hereinafter "Kitano", US Patent No 5,926,116) and in further view of Camhi (US Patent No 5,825,283).

As per claim 5, Giniger discloses a system as claimed in claim 3.

Giniger does not explicitly disclose the system comprising data elements which are adapted to contain data representations of the altitude associated with the location. However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

As per claim 7, Giniger discloses a system as claimed in claim 6.

Giniger does not explicitly disclose the system further comprising data elements which are adapted to contain data representations of the accuracy of the data representations of the latitude, the longitude and the altitude.

However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

As per claim 8, Giniger discloses a system as claimed in claim 1 in which the data elements are adapted to contain data representations of:

c) an identifier associated with the location.

Giniger does not explicitly disclose in which the data elements are adapted to contain data representations of:

a) the latitude associated with the location;

b) the longitude associated with the location;

d) the altitude associated with the location.

However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

As per claim 11, Giniger discloses a virtual location bookmark as claimed in claim 10.

Giniger does not explicitly disclose the system further comprising the altitude associated with the location.

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However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

Response to Arguments

The Office notes the following arguments:

- (a) Giniger does not teach a system to create and manage location bookmarks as claimed by the Applicants (emphasis added).
- (b) There are no means in Giniger's system to create new location bookmarks.
- (c) Nowhere in Giniger's application it is taught or suggested that the information can be modified by the user in a proactive manner.
- (d) Claim 12 points to the creation and storage of information relating to a location (emphasis added).
- (e) Nowhere in the disclosure of Giniger is it stated that the user creates additional data related to a location.

6. Applicant's arguments filed have been fully considered but they are not persuasive.

In response to:

- (a) In response to applicant's arguments, the recitation "system to create and manage location bookmarks" has not been given patentable weight because the

recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

(b) The limitation “create new location bookmarks” is not found in any of the claims/claim language.

(c) The limitation “modifying the information by the user in a proactive manner” is not found in any of the claims/claim language.

(d) In response to applicant's arguments, the recitation “creation and storage of information relating to a location” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

(e) The claim limitations particularly states “**identifying or creating** additional data elements associated to said location”. Giniger teaches getting last minute itineraries or route information that corresponds to the user's actual position (column 21, lines 1-8). Therefore, additional data is identified or created according to the user's location.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barbara N Burgess
Examiner
Art Unit 2157

June 21, 2003


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER